

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER HIRAM CANO,

Plaintiff,

-against-

UNITED STATES OF AMERICA /
CORPORATE AMERICA, *et al.*,

Defendants.

21-CV-9165 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff,¹ who is currently being held at Mid-Hudson Psychiatric Center, filed this action *pro se* on November 4, 2021, while she was in the custody of the New York City Department of Correction. Because Plaintiff filed this action without a prisoner authorization form, by order dated April 5, 2022, the Court directed Plaintiff, within thirty days, to submit a completed and signed prisoner authorization form. (ECF No. 4.) The Clerk of Court mailed the order to Plaintiff at the Anna M. Kross Center on Rikers Island, her address of record at the time. On March 30, 2022, the order mailed to Plaintiff was returned to the court marked, “Inmate DISC xSH 3/30.”

By order dated August 31, 2022, the Court directed Plaintiff, within thirty days, to update her address of record, and that order warned Plaintiff that failure to update her address would result in the Court dismissing the action without prejudice for failure to prosecute. (ECF No. 8.) Having received no response from Plaintiff, by order dated October 5, 2022, the Court dismissed this action without prejudice. (ECF No. 9.)

On August 18, 2023, Plaintiff filed an amended complaint with attachments, totaling 246 pages, (ECF No. 12), and a motion for reconsideration, (ECF No. 13). Plaintiff asserts that she

¹ Plaintiff uses the pronouns she/her.

“did not failed [sic] to prosecute, that she was malicious[ly] prevented from prosecuting the case by defendants, Plaintiff did try to initiate further contact with the Court through written communication but was maliciously tampered by the defendants.” (ECF No. 13 at 2.)

The Court grants Plaintiff’s request for reconsideration and therefore vacates its October 5, 2022 order of dismissal and civil judgment and directs the Clerk of Court to reopen this case. Plaintiff’s claims will be addressed in due course.

CONCLUSION

The Court grants Plaintiff’s motion for reconsideration (ECF No. 13.)

The Clerk of Court is directed to vacate the October 5, 2022 order of dismissal (ECF No. 9) and civil judgment (ECF No. 10), and to reopen this case.

No summons shall issue at this time. Plaintiff’s claims will be addressed in due course.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppededge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: January 17, 2024
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge